

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JAMES A. DAVISON,

Petitioner,

Case No. 3:22-cv-269

vs.

WARDEN, CHILLICOTHE
CORRECTIONAL INSTITUTION,

District Judge Michael J. Newman
Magistrate Judge Michael R. Merz

Respondent.

ORDER: (1) OVERRULING PETITIONER’S OBJECTIONS (Doc. Nos. 14, 19, 22) TO THE MAGISTRATE JUDGE’S REPORTS AND RECOMMENDATIONS; (2) ADOPTING THE REPORTS AND RECOMMENDATIONS (Doc. Nos. 12, 21); (3) DISMISSING WITH PREJUDICE THE PETITION FOR WRIT OF HABEAS CORPUS (Doc. No. 1); (3) DENYING ANY REQUESTED CERTIFICATE OF APPEALABILITY; (4) CERTIFYING THAT AN APPEAL OF THIS ORDER WOULD BE OBJECTIVELY FRIVOLOUS AND FINDING THAT PETITIONER SHOULD BE DENIED *IN FORMA PAUPERIS* STATUS ON APPEAL; (5) AND TERMINATING THIS CASE ON THE DOCKET

Petitioner James A. Davison, an inmate in state custody at the Chillicothe Correctional Institution in Chillicothe, Ohio, brings this case *pro se* seeking a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. Doc. No. 1. The Court previously adopted the Report and Recommendation of Magistrate Judge Michael R. Merz (Doc. Nos. 12, 16), to whom this case was referred pursuant to 28 U.S.C. § 636(b), based on the misapprehension that Petitioner had not filed timely objections to the Report and Recommendation, *see* Doc. No. 14.

The case is presently before the Court upon Petitioner’s original objections (Doc. No. 14) and his post-judgment objections (Doc. No. 19) to the Report and Recommendation (Doc. No. 12), and Petitioner’s objections (Doc. No. 22) to Judge Merz’s second Report and Recommendation (Doc. No.

21).¹

Upon careful *de novo* review of the foregoing—including, but not limited to Petitioner’s original objections to Judge Merz’s first Report and Recommendation—the Court determines that the Judge Merz’s Reports and Recommendations apply the correct law, are well reasoned, and should be **ADOPTED**. Accordingly, Petitioner’s Objections are **OVERRULED**; the two Reports and Recommendations are **ADOPTED**; and the Petition is **DISMISSED**. Petitioner is **DENIED** any requested certificate of appealability, and the Court hereby **CERTIFIES** to the United States Court of Appeals for the Sixth Circuit that an appeal of this Order would be objectively frivolous and, therefore, Petitioner should not be permitted to proceed *in forma pauperis*.

IT IS SO ORDERED.

July 22, 2024

s/Michael J. Newman
Hon. Michael J. Newman
United States District Judge

¹ Judge Merz correctly concludes in his second Report and Recommendation that Petitioner’s “Objections are timely so as to be considered as a motion to amend the judgment under Fed. R. Civ. P. 59(e).” Doc. No. 21 at PageID 1238. Judge Merz’s recommendation that Petitioner’s motion to amend the judgment under Rule 59(e) be denied, *id.* at PageID 1238-39, along with his other recommendations, is **ADOPTED** herein.